

Act No. 82  
Public Acts of 1991  
Approved by the Governor  
July 18, 1991  
Filed with the Secretary of State  
July 18, 1991

**STATE OF MICHIGAN  
86TH LEGISLATURE  
REGULAR SESSION OF 1991**

Introduced by Senator Gast

# **ENROLLED SENATE BILL No. 277**

AN ACT to amend sections 351, 355, 471, and 475 of Act No. 281 of the Public Acts of 1967, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts," section 351 as amended by Act No. 15 of the Public Acts of 1983 and section 475 as amended by Act No. 211 of the Public Acts of 1982, being sections 206.351, 206.355, 206.471, and 206.475 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 351, 355, 471, and 475 of Act No. 281 of the Public Acts of 1967, section 351 as amended by Act No. 15 of the Public Acts of 1983 and section 475 as amended by Act No. 211 of the Public Acts of 1982, being sections 206.351, 206.355, 206.471, and 206.475 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 351. (1) Every employer in this state required under the provisions of the internal revenue code to withhold a tax on the compensation of an individual, except as otherwise provided, shall deduct and withhold a tax in an amount computed by applying, except as provided by subsection (7), the rate prescribed in section 51 to the remainder of the compensation after deducting therefrom the same proportion of the total amount of personal and dependency exemptions of the individual allowed under this act that the period of time covered by the compensation is of 1 year. The commissioner may prescribe withholding tables that may be used by employers in computing the amount of tax required to be withheld.

(2) The taxes withheld under this section shall accrue to the state on the last day of the month in which they are withheld but shall be returned and paid to the department by the employer within 15 days after the end of any month or as provided in section 355, except prior to July 1, 1993. taxes deposited pursuant to section 19(2) of Act No. 122 of the Public Acts of 1941, being section 205.19 of the Michigan Compiled Laws, are accrued on the last day of the filing period.

(3) An employer required by this section to deduct and withhold taxes on compensation holds the amount of tax withheld as a trustee for the state, is liable for the payment of the tax to the state, and is not liable to any individual for the amount of the payment.

(4) An employer in this state is not required to deduct and withhold a tax on the compensation paid to a nonresident individual employee, who, under section 256, may claim a tax credit equal to or in excess of the tax estimated to be due for the taxable year or is exempted from liability for the tax imposed by this act. In each taxable year, the nonresident individual shall furnish the employer, on a form approved by the department, a verified statement of nonresidence.

(5) If the employer is a corporation and does not for any reason file the returns or pay the tax due under this act, any of the officers of the corporation having control, supervision of, or charged with the responsibility for making the returns or payments shall be personally liable for a failure to file or pay. The dissolution of a corporation does not discharge a corporate officer's liability for the failure of the corporation to file a return or remit the tax that was due before dissolution. The sum due for any liability imposed upon a corporate officer under this subsection may be assessed and collected as provided in sections 23 and 24 of Act No. 122 of the Public Acts of 1941, as amended, being sections 205.23 and 205.24 of the Michigan Compiled Laws.

(6) An employer required to withhold a tax under this act, by the fifteenth day of the following month, shall provide the department with a copy of any exemption certificate on which the employee is claiming more than 9 personal or dependency exemptions or claims a status exempting the employee from withholding under this section.

(7) Subject to the deductions and exceptions provided by this section, for the period that commences on the effective date of this subsection and ends on December 31, 1983, the department shall prescribe withholding rates and tables sufficient to withhold the following amounts:

(a) A tax computed by applying 4.6% to the compensation of the individual.

(b) A tax computed by applying to the compensation of the individual paid in the period for which this subsection is applicable, a rate equal to the product of 1.75% multiplied by the quotient of 365 divided by the number of days in the period for which this subsection is applicable.

Sec. 355. All provisions relating to the administration, collection, and enforcement of this act apply to the employer required to withhold taxes and to the taxes required to be withheld. If the commissioner has reasonable grounds to believe that an employer will not pay taxes withheld to the state as prescribed by this act, or to provide a more efficient administration, the commissioner may require the employer to make the return and pay to the department the tax deducted and withheld at other than monthly periods, or from time to time, or require the employer to deposit the tax in a bank approved by the commissioner in a separate account, in trust for the department and payable to the department, and to keep the amount of the taxes in the account until payment over to the department.

Sec. 471. The tax imposed by this act shall be administered by the department. The department shall prescribe forms for use by taxpayers and shall promulgate rules in conformity with this act for the maintenance by taxpayers of records, books, and accounts, for the computation of the tax, the manner and time of changing or electing accounting methods and of exercising the various options contained in this act, the making of returns, the payment of tax due, and the ascertainment, assessment, and collection of the tax imposed under this act. The rules insofar as possible without being inconsistent with this act, shall follow the rulings of the United States internal revenue service with respect to the federal income tax, and the department may adopt as a part of the rules any portions of the internal revenue code or rulings, in whole or in part. A summary of state expenditures and revenues by major category, in dollar amounts and percentage of total, for the most recent state fiscal year that the information is available, shall be printed in the instruction booklet accompanying each state income tax return. Each return shall contain a space for the taxpayer to indicate the school district in which the taxpayer resides.

Sec. 475. (1) The tax imposed by this act is in addition to all other taxes for which the taxpayer is liable and the proceeds derived from the tax shall be credited to the general fund to be allocated and distributed as provided in this act.

(2) Each year that the refund designation program established in section 440 is in effect, an amount equal to the cumulative designations made under section 440 less the annual amount appropriated to the department of treasury for the purpose of administering the children's trust fund and implementing section 440, shall be appropriated from the general fund to the children's trust fund in the department of treasury for use solely in support of the purposes provided in the act that created the children's trust fund.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved.....

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Governor.